

Applicant : Sho Kuwamoto, et al.  
Serial No. : 09/875,549  
Filed : June 6, 2001  
Page : 2 of 3

Attorney's Docket No.: 07844-731001 / M142

the information received from the server" and "associating an item of information appearing between the start identifier and the end identifier with the first object" has separate utility.

Further, 35 U.S.C. § 121 provides that "If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions." Thus, a restriction requirement is proper only if the inventions are both independent and distinct. M.P.E.P. 802.01, headed "Meaning of 'Independent' and 'Distinct'", reads as follows:

#### INDEPENDENT

The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used in practicing the process are independent inventions.

#### DISTINCT

Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art).

In light of the above descriptions, the Examiner also has not shown that the claims in at least one of the specified groups are "PATENTABLE (novel and unobvious) OVER THE OTHER". Should the requirement for restriction be made final, the Examiner is respectfully requested to rule that the claims included in each of Groups I and II are patentable (novel and unobvious) over each other.

Moreover, nothing in 37 C.F.R. § 1.142 authorizes the Examiner to depart from the statutory requirements of 35 U.S.C. § 121, which specifies that the inventions must be "independent and distinct" as a condition precedent to requiring restriction as observed in M.P.E.P. 802.01. Further, M.P.E.P. 803 requires that (underlining added for emphasis), "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." In view of the above, withdrawal of the restriction requirement is respectfully requested.

Applicant : Sho Kuwamoto, et al.  
Serial No. : 09/875,549  
Filed : June 6, 2001  
Page : 3 of 3

Attorney's Docket No.: 07844-731001 / M142

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: September 25, 2006



William E. Hunter  
Reg. No. 47,671

Fish & Richardson P.C.  
PTO Customer No. 021876  
12390 El Camino Real  
San Diego, California 92130  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099